

TOWN OF NEW WINDSOR PLANNING BOARD
NEW WINDSOR, NEW YORK

July 28, 2010
7:30 p.m.
New Windsor Town Hall
New Windsor, New York

PLANNING BOARD MEMBERS:

JERRY ARGENIO: Chairman
NEIL SCHLESINGER
HARRY BROWN
HENRY VanLEEUEWEN
DAN GALLAGHER
HARRY FERGUSON, Alternate

STEVE GABA, Attorney
MARK EDSALL, Town Engineer
JENNIFER GALLAGHER, Building Inspector
NICOLE JULIAN, Secretary

MR. ARGENIO: I'll call the July 28th Town of New Windsor Planning Board to order. Would everybody please stand for the pledge of allegiance?
(Whereupon, the pledge of allegiance was recited.)

MR. ARGENIO: First item of business tonight, I see we have a full Board that's good, is approval of the minutes dated June 9, 2010 sent out via e-mail on June 21st, 2010. If anybody sees fit I'll accept a motion.

MR. VanLEEUEWEN: So moved.

MR. GALLAGHER: Second.

MR. ARGENIO: Motion made and seconded. Roll call.

MR. SCHLESINGER: Yes
MR. BROWN: Yes
MR. GALLAGHER: Yes
MR. VanLEEUEWEN: Yes
MR. ARGENIO: Yes

JULY 28, 2010 - DA REALTY PARK REVIEW

MR. ARGENIO: First item of business, DA Realty Mobile Home Park. Somebody here to represent this?

MR. CRANA: Yes, sir.

MR. ARGENIO: Can I have your name?

MR. CRANA: Douglas Crana, C-R-A-N-A.

MR. ARGENIO: Douglas Crana. Jen, has anybody from your office been over to take a look around?

MS. GALLAGHER: Yes, they have, Mr. Chairman.

MR. ARGENIO: What do you have?

MS. GALLAGHER: Everything is fine there.

MR. ARGENIO: That is fantastic. What are the fees for this? Do you have a check with you made out in favor of the Town for \$250?

MR. CRANA: Yes.

MR. ARGENIO: As such I'll accept a motion that we approve.

MR. VanLEEUVEN: So moved.

MR. GALLAGHER: Second.

MR. ARGENIO: Motion made and seconded that we renew their permit to operate one year. Roll call.

MR. SCHLESINGER: Yes

MR. BROWN: Yes

MR. GALLAGHER: Yes

MR. VanLEEUVEN: Yes

MR. ARGENIO: Yes

JULY 28, 2010 HUDSON VIEW MOBILE HOME PARK

MR. ARGENIO: Hudson View Mobile Home Park. Who is here to represent this?

MR. ADAMS: John Adams, Mr. Chairman, Corbally, Gartland and Rappleyea.

MR. ARGENIO: How are you today, counselor?

MR. ADAMS: Fine.

MR. ARGENIO: Jen, Hudson View Mobile Home Park, tell me about this?

MS. GALLAGHER: As of right now we have not received anything from the mobile home park, engineer reports, electrical inspections, nothing.

MR. ARGENIO: Has anybody from your office been down there of late?

MS. GALLAGHER: Not since -- nothing about the trailers that were going to be condemned, no, we have not been down there, we haven't been called to be down there.

MR. ARGENIO: So as far as you're aware there's been no changes?

MS. GALLAGHER: No.

MR. ARGENIO: Counselor?

MR. ADAMS: All the work that was requested has been done. And in particular there was concern at the last meeting about three homes that had a situation where they needed additional support, otherwise there was concern about the integrity of those homes and the safety of the people within those homes. All that work was done. And I'm told by my client that when that work was done there were people from the Town fire inspector's office who monitored and inspected that work to assure compliance which is normal on a construction project, you never do anything and not have somebody from the town monitoring the work. So I was told that all the work was done, one. The only, the UO things were, when the two outstanding documentations were faxed by the inspector to the, I guess it's the electrical inspector of the town, today

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late in the day you may not know about that, I'm told it happened. I can only represent to you what I'm told. The only thing that I understand to be outstanding, and I am getting ahead of myself but that's all right, is the architect's letter confirming the integrity of the structural supports for the homes.

Now, I spoke to that architect recently, or I had a phone message from him recently as 1:00 o'clock this afternoon, he represented to me the sketch is almost done, you'll have it. Quite frankly I didn't get it and I regret I didn't get it in a timely basis, but it's my understanding that that's the only outstanding item. But, I took the trouble today of looking at the code standards for the town and I said what do I need for renewal, what are the standards for renewal. That check is a sole standard for renewal, and I'm tendering this check. If you look at your town code regarding mobile home parks, we call them manufactured home parks now, I'm delighted that you have encouraged, because you have exceeded in getting a lot of work done, but this Board is not the enforce mechanism for getting work done within the park. The code as to manufactured home parks has a whole separate mechanism for enforcement. This Board is not the enforcement arm. Now, obviously we are getting conflicting information. I am getting one set of information, Jennifer is getting the second set.

MR. ARGENIO: Jennifer is getting no information, unless she is a liar.

MR. ADAMS: I'm told that unless there is not communication within the town, and I'm not saying there is or there isn't, I don't know that, but as I said earlier --

MR. ARGENIO: I want to speak for a second. I'm going to say what I have to say, I'm the chairman, I want to hear from the Board members if anybody disagrees with what I'm about to say, we certainly can discuss it because we are certainly a board, but I'm going to set the ball in motion. I have no problem with you challenging the authority of this Board, that's the beauty of government, there's bushes and there's poles and that's fine. This check I'm going to give to the

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attorney. Mr. Gaba, are you taking all of this in?

MR. GABA: I sure am.

MR. ARGENIO: You challenged the authority of this Board to do what we do, what we have done in the past relatively successfully with all mobile home parks. You have created a legal issue. You're representing to me tonight, to this Board tonight that in a secondhand nature you have been told that all of this has been done. Mysteriously today on the last day, the day you were supposed to appear this evening, people were supposed to have moved paperwork and made phone calls to the building inspector which didn't happen. I don't know why quite frankly, I really don't care, but at this point from where I'm sitting it's a legal issue. It's in your hands, Mr. Gaba. I want you to get a hold of the Town attorney tomorrow, you and Mr. Cordisco, you guys talk about it, see what we can do. At this point in time this park has operated without a permit for quite sometime because it's not in great shape and this Board has many, many times worked with many other applicants, Danny, Neil, Howard and Henry as you know to try to bring things to a certain standard. Now, if counsel is correct, counsel standing in front of me, is correct and it's not our business to do that well, we shouldn't be doing it. But as far as I'm concerned I'm done with it, we should be done with it. You take it, you get with Mike Blythe, you get with Dominic Cordisco, whatever legal actions should be taken and can be taken to compel the owner to create a safe standard on this site that the Town residents would want within their town I think should be taken but at this point this is a legal issue. Hand that check to Steve please. You have the check. Steve, do your research, I want to get a letter out within the next couple of days.

Does anybody have a problem with where I'm going?

MR. SCHLESINGER: I have no problem with that, I just feel that your client has contested this Board and the building department in the past and if it's a legal issue that's fine, and if it's a building department issue then I'm sure the building department will handle it in the manner they feel appropriate.

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MR. ARGENIO: What we're not going to do is we're not going to debate it here tonight because I am not an attorney. Steve Gaba is very capable counsel, but he doesn't have the benefit of knowing all the history of this, Dominic does. So that's the venue we're going to handle it. The record should reflect that it's the applicant that brought it there, not this Board. Anybody have anything else? Anything else, counselor?

MR. ADAMS: Again, I emphasize, I don't fault the Board for taking constructive steps.

MR. VanLEEuwEN: You are standing there threatening us. As far as I'm concerned you can have a nice day. You go threaten somebody else.

MR. ARGENIO: This is over off of 9W I think near Robert Arms. Jennifer, is that right, somewhere over near Robert Arms off of 9W?

MS. GALLAGHER: That's correct, Dorothy Tobach.

MR. ARGENIO: Counsel, thank you for coming in this evening. I certainly wish you the best of luck. Steve, I look forward to hearing from you or somebody in your office in the next day or two.

JULY 28, 2010 ED BIAGINI SUBDIVISION

MR. ARGENIO: Ed Biagini. We have a lot of items on the agenda tonight, folks. A lot of them are procedural. This is one of those procedural ones. So I don't want to get bogged down on things that are strictly a matter of procedure. I'm going to read through this, the application proposes the subdivision of the 2.68 acre parcel into three single-family residential lots. The plan was previously reviewed at the 27 February 2008, 28 January 2009, 24 June 2009 and 15 July 2009 Planning Board meetings and it received conditional approval at the last meeting.

What's happened here is because of how soft the residential market is the applicant has not built a house. We gave him approval and he has approval, he got a variance from Zoning months and months and months ago and he just wants to be reapproved. Everything is the same. All the conditions are the same, everything is identical, nothing has changed, is that correct, Mr. Biagini?

MR. BIAGINI: Yes, right.

MR. ARGENIO: Mark, do you have any other commentary on this?

MR. EDSALL: Exactly as you stated.

MR. ARGENIO: Nothing has changed, we're all aware of the soft market and he just wants to get reapproval. Anybody have any questions?

MR. VanLEEUEWEN: So moved.

MR. ARGENIO: Motion made by Mr. VanLeeuwen for reapproval.

MR. SCHLESINGER: Second.

MR. ARGENIO: Motion has been seconded by Mr. Schlesinger. Roll call.

MR. SCHLESINGER: Yes
MR. BROWN: Yes
MR. VanLEEUEWEN: Yes
MR. GALLAGHER: Yes
MR. ARGENIO: Yes

JULY 28, 2010 NEW WINDSOR SENIOR HOUSING SITE PLAN

MR. ARGENIO: New Windsor Senior site plan amendment Route 32. I don't have a lot of specific background from Mark on this, but I'll refresh everybody's memory. This is the senior project over behind Rite Aid, behind Ral Plumbing in Vails Gate. They got a waiver for parking stalls, they have two units that they'd like to convert into what is the term ultra affordable?

MR. EDSALL: Totally affordable.

MR. ARGENIO: Totally affordable senior housing. There is some question about the parking. It had been brought up a couple of times, I think it was Neil was the one that brought it up. I have visited that site no fewer than three times in the past, I'm going to say about five weeks, four to five weeks since you guys were here last. And in the morning, Neil, every time I went there there's between two and 12 stalls open. Now don't ask me how many units.

MR. VanLEEUEWEN: What time of the morning?

MR. ARGENIO: 7:30, eight o'clock, seven o'clock, before work. Now, I don't know how much of its built out, I can't answer any question like that, but the applicant was sent to the Zoning Board and I understand you received the appropriate variances that you were looking for at zoning?

MR. EWALD: Correct, we received a variance for the 93 units on the parcel.

MR. ARGENIO: Again, this is very much procedural, we have looked at this several times.

MR. VanLEEUEWEN: I have got no problem.

MR. ARGENIO: Big thing was the zoning issue, I will be very frank with you, that was the hurdle. If they could get through zoning. Mark has only got a couple of very minor comments here. It's my understanding that the applicant received the necessary variances which was just confirmed. They went to Orange County Department of Planning and we've heard back from them and Orange County Department of Planning has said local determination.

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MR. VanLEEuwEN: I make a motion to approve.

MR. ARGENIO: Let me just make sure.

MR. EDSALL: My comments are all procedural, there's no comments of corrective nature, but you need to address number three of my comments.

MR. ARGENIO: For these two additional units in these buildings, if anybody sees fit, I will accept a motion that we waive the public hearing for this two unit site plan amendment.

MR. VanLEEuwEN: So moved.

MR. SCHLESINGER: Second.

MR. ARGENIO: Motion has been made and seconded that we waive public hearing for said application. Roll call.

MR. SCHLESINGER: Yes

MR. BROWN: Yes

MR. GALLAGHER: Yes

MR. VanLEEuwEN: Yes

MR. ARGENIO: Yes

MR. VanLEEuwEN: Everybody is very, very, very happy. I've been there a couple of times already.

MR. ARGENIO: You have?

MR. VanLEEuwEN: Yes.

MR. ARGENIO: Good.

MR. VanLEEuwEN: The senior citizens are very happy we did this for them.

MR. ARGENIO: Steve or Mark, what are we doing about SEQRA? Do we need to make a neg dec?

MR. GABA: No, you need to yet and you should have a resolution on it in your package.

MR. ARGENIO: I'll accept a motion for a neg dec on this application.

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MR. VanLEEUEWEN: So moved.

MR. SCHLESINGER: Second.

MR. ARGENIO: Motion made and seconded that the Town of New Windsor Planning Board declare a neg dec under the SEQRA process for New Windsor Senior Housing. Roll call.

MR. SCHLESINGER: Yes
MR. BROWN: Yes
MR. GALLAGHER: Yes
MR. VanLEEUEWEN: Yes
MR. ARGENIO: Yes

MR. EDSALL: Mr. Chairman, this includes no outside improvements so there are no bonds, inspection fees, anything else. This is purely an internal unit density change so there are no need for conditions in that regard.

MR. ARGENIO: We have a lot of procedural things tonight. If anybody sees fit I'll accept a motion for final approval.

MR. VanLEEUEWEN: So moved.

MR. BROWN: Second.

MR. ARGENIO: A motion has been made and seconded by Mr. Brown we offer final approval for this application. Roll Call.

MR. SCHLESINGER: Yes
MR. BROWN: Yes
MR. GALLAGHER: Yes
MR. VanLEEUEWEN: Yes
MR. ARGENIO: Yes

JULY 28, 2010 AMBER GROVE SUBDIVISION

MR. ARGENIO: This is going to be a little bit of review, I want you to please take a moment and move to the other side there and give that man with the white hair a little brief rundown of what we talked about the first thing tonight, if you would.

This is number three on your agenda ladies and gentlemen. This is the Amber Grove Warwick property subdivision on New York State 94 and Forge Hill Road. The application proposes a two lot subdivision of the 46 plus acre parcel. It was previously reviewed, that is the application, at the 24 March 2010 Planning Board meeting.

Guys, this is the subdivision. The next application or the next item on your agenda is the site plan application at which time we will talk about the site plan. But I just want to go through some procedural things on the subdivision and the meat of this application is the site plan. We'll get right to that and that's what we're going to be looking at here. We did hear from County on this, it's local determination. Orange County Department of Public Works, they approved the subdivision application and the SEQRA. Any action we take on SEQRA will be combined with the other, with the site plan and this plan.

What I would like to do is if we're going to consider a public hearing we should be considering it in my estimation on the site plan and not the subdivision plan. As such if anybody sees fit I'll accept a motion we waive the public hearing for the subdivision plan.

MR. SCHLESINGER: Motion made.

MR. BROWN: Second.

MR. ARGENIO: Motion made and seconded by Mr. Brown. Roll call.

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| MR. SCHLESINGER: | Yes |
| MR. BROWN: | Yes |
| MR. GALLAGHER: | Yes |
| MR. VanLEEuwEN: | Yes |
| MR. ARGENIO: | Yes |

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MR. ARGENIO: That procedural stuff aside, let's get to the meat of it, put the site plan up there, let's talk about that, that's what this application is really about. Go ahead.

MR. EWALD: We received at the last Planning Board meeting along with Orange County DPW comments we move the entire building parking area, all the infrastructure that goes along with it back towards the rear of the lot line away from Forge Hill Road.

MR. ARGENIO: To refresh everybody's memory, the Board members, there was a comment from the Parks Commission who controls the property across the street Knox's Headquarters and really we discussed, to refresh everybody's memory, the only thing we can do is do our due diligence on the esthetics. We thought maybe it would be a good idea to push the whole project to the north a bit and get them further away from the Parks Commission's facilities. I don't know if it's going to make a big difference but we could do it so we did it.

About how far were you able to move it?

MR. EWALD: Due to the grading that we needed to have in the rear of the building we were able to move it, I believe, five feet back from where it was.

MR. ARGENIO: That's five foot more than we had before. Go ahead.

MR. EWALD: We made a couple of minor revisions to the details, to the storm water pollution prevention plan. And we located the dumpster enclosure 90 degrees to the way it was shown previously. And we heard from the Town Board regarding the conceptual approval of the special use permit and they referred it back to the Planning Board. I believe we can't return it back to the Town Board until we have concluded SEQRA.

MR. ARGENIO: Mark?

MR. EDSALL: Yes, sir.

MR. ARGENIO: Help us out procedurally a little bit here, what is the exact procedure on the senior business?

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MR. EDSALL: Well, first when the applications are received by both Boards and the Planning Board deems the application complete it's referred to the Town Board for a general determination. I don't know if I would use the word determination, consensus as to the appropriateness of the location, if it's suitable based on the guidelines and the code. The Town Board then returns it back to the Planning Board with kind of a thumbs up or thumbs down as to the appropriateness of the location and effectively says to the Planning Board you have to move forward, complete SEQRA and send it back for the special permit. Because under SEQRA you can't take action until SEQRA is completed and because we don't want to segment the reviews and the Town Board prefers by code that the Planning Board is lead agency they kick it back to you until SEQRA is done, so that's where you're at right now.

Just while I am speaking, correction under comment two, just to make the date get filled in that I failed to fill in the letter for the lead agency was April 27th just so you have it. I left that as a blank on the report.

MR. ARGENIO: Okay, go ahead. Travis, tell me a bit about -- first I have one question, on the dumpster, you don't have a driveway going into it, how are those bins emptied?

MR. MANDELBAUM: They roll them out.

MR. ARGENIO: So the garbage man will open up a gate, roll the bin out?

MR. MANDELBAUM: They roll out, the forks come out, put it into the truck and drive away.

MR. ARGENIO: So they are like plastic bins?

MR. MANDELBAUM: They are on rollers. Three yarders on rollers.

MR. ARGENIO: I don't understand. A steel dumpster, it's got to weigh hundreds and hundreds of pounds.

MR. SCHLESINGER: They're not that big. They roll them out.

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MR. BROWN: They pick them up with forks.

MR. ARGENIO: The truck doesn't have to drive in there?

MR. BROWN: No.

MR. EDSALL: Mr. Chairman, RPA has the roll around type as well and they just push them right out.

MR. ARGENIO: I'm getting crucified. I'm just asking the question, please.

MR. EDSALL: Big guys do it.

MR. ARGENIO: This has been referred to County, they say local determination.

MR. EWALD: Yes.

MR. ARGENIO: We also did speak about the esthetics of this and you said, Jonah said, somebody said you were going to give us some renderings at some point.

MR. EWALD: We brought it to the last meeting.

MR. MANDELBAUM: We'd be happy to bring it to every meeting.

MR. ARGENIO: Next time.

MR. MANDELBAUM: Absolutely.

MR. EWALD: We are definitely going to bring it to the public hearing.

MR. ARGENIO: You have the stonewall, they put the stonewall in, that's beautiful. Let's go to landscaping.

MR. EWALD: We had provided a triple row of pine trees along the front of the project, along Forge Hill. We've also provided at least a triple row of pine trees along the side of the parking lot.

MR. ARGENIO: Drawing seven, Neil.

MR. EWALD: Along Route 94. Additionally along New

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York State Route 94 we have attempted to preserve the existing wooded area to the greatest extent possible.

MR. ARGENIO: Do you have an area of disturbance up there? Are they new plantings, what's going on?

MR. EWALD: We are proposing a row of pine trees along the stonewall.

MR. ARGENIO: There's a wooded area that's going to remain as is?

MR. MANDELBAUM: Correct. The mature trees in that corner will be left alone. The only disturbance you're going to have on 94 is the water connection, but we also as we do the stonewall here we'll repair the stonewall on 94 also.

MR. ARGENIO: You are going to, you're going to repair that?

MR. MANDELBAUM: Absolutely. It's got to look the same.

MR. ARGENIO: Jonah, you spare no expense, I have to tell you.

MR. MANDELBAUM: You asked for it a few minutes ago.

MR. SCHLESINGER: Again question. The first thing is, I'm sure your being in the historic area and everything you'll put in some flag poles, right?

MR. MANDELBAUM: A flag pole?

MR. SCHLESINGER: Flag pole.

MR. MANDELBAUM: Yes. If you go to my complex now there's a flag pole.

MR. SCHLESINGER: It will make the historians very happy and us very happy. I don't want to open Pandora's box, but I have a question, you have to be 55 years old to live in here, is that correct?

MR. MANDELBAUM: Yes.

MR. SCHLESINGER: Believe it or not I qualify.

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MR. MANDELBAUM: But you don't qualify with the income, sorry.

MR. SCHLESINGER: I have a question. What's the qualification for having a parking space if somebody wanted to live there? In other words, a couple comes to you, they meet the qualifications and they have a car, are they guaranteed a parking space, are they assigned a number?

MR. MANDELBAUM: Let me talk to you about numbers first. What we are proposing, yeah, I think it's one per unit. So actually a little bit more than what the number of units.

MR. SCHLESINGER: You have more parking spaces than the number of units?

MR. MANDELBAUM: Yes.

MR. ARGENIO: So this is not like the other one.

MR. SCHLESINGER: I counted before I asked the question, maybe I miscounted.

MR. MANDELBAUM: Let me talk to you about, that's a question that comes up quite a bit, are you assigned a number. We do not assign a number for simple reason, we were told by several police departments when we started, actually Port Jervis, don't do it.

MR. ARGENIO: The cops can't enforce it.

MR. MANDELBAUM: Not only they can't enforce it, more importantly than that, if you live in apartment one and a car is not in apartment one they know you're not home, so.

MR. SCHLESINGER: I understand. I'm sure there is very valid points but that wasn't my purpose of asking the question. So, in other words, there's enough parking spaces for every unit to have at least one car?

MR. MANDELBAUM: Correct.

MR. SCHLESINGER: What happens if my wife wants to have a car too, two cars?

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MR. MANDELBAUM: We have plenty. Under all of our study only .6 per unit. We're really about half, a little bit more than half for the people in that income because a lot of them do not have cars. Example, we have 60 some spots here, we only have 58 cars. Right now only 58 cars. If you have a visitor what we did here, Ral gave us permission, we striped like 20 something spots. Any location that I have I never had that issue because a lot of people they are 30 percent median income, they don't have a car, they can't afford it.

MR. BROWN: Are the cars registered with you guys?

MR. MANDELBAUM: Yes, every renter that has a car gets a sticker from us. We put a sticker in the window so we know who it is. Absolutely. We do not put our apartment number on it, just a number, just a number.

MR. SCHLESINGER: If you mapped the spaces obviously it meets the code and plus your history and statistics show that you have enough parking?

MR. MANDELBAUM: Plenty of spots. This parking lot I bet you I don't think it will be a little bit more than half, that's about it, the rest will be just there.

MR. ARGENIO: Okay, you guys continue to look and think.

MR. VanLEEuwEN: Do you have applications already to move in here?

MR. MANDELBAUM: No, we can't take application now. We have over 100 people on a waiting list right here with the existing building. So basically we'll ask those people do they have to reapply for this complex because it will be on a different application, different SHAR (phonetic) number required by the state and we have to advertise it, it's not a regulation but we can't start now. We already have phone calls when it's going to be ready. So all we are doing is taking names. We can't really send an application. The application is not valid according to the Division of Housing, it's got to be 90 days prior to occupancy because we have to review their income. It can't be older than 90 days.

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MR. VanLEEUEWEN: Well, I have been in your other place three times and I've talked to at least ten, 12 people there and there were no complaints.

MR. MANDELBAUM: I think the Board got another letter, I just saw a copy of it just recently. I heard they sent a letter to probably you guys.

MR. ARGENIO: Can I stop holding hands for a minute here, I want to hit a couple of procedural things. Mark, is there anything preventing us from assuming lead agency on this for SEQRA?

MR. EDSALL: No, the circulation is out well over the 30 days. I'm aware of no correspondence with anyone else who wants the job so I would say go ahead.

MR. ARGENIO: I'll accept a motion to that effect if anybody sees fit.

MR. VanLEEUEWEN: So moved.

MR. SCHLESINGER: Second.

MR. ARGENIO: Made and seconded that we declare ourself lead agency, Town of New Windsor Planning Board, in the SEQRA process. Roll call.

MR. SCHLESINGER: Yes

MR. BROWN: Yes

MR. GALLAGHER: Yes

MR. VanLEEUEWEN: Yes

MR. ARGENIO: Yes

MR. ARGENIO: Mark's comment number three, we have reviewed the resubmital to our initial detailed comments issued on March 24th and note that a great majority of the items have been addressed. I want to hit a couple of things here.

MR. EDSALL: Can I jump in on one?

MR. ARGENIO: Yes, go ahead.

MR. EDSALL: In jumping to drawing seven I note that the project sign does appear on the landscaping plan but isn't on the site plan so.

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MR. ARGENIO: Where is the project sign, in the corner?

MR. EDSALL: It's at the entrance drive off of Forge Hill.

MR. ARGENIO: I don't see it on page seven.

MR. VanLEEuwEN: I don't either.

MR. EDSALL: Drawing seven right --

MR. ARGENIO: I see it, I'm sorry.

MR. EDSALL: So my comment that it's not on site plan is true but in fact they do propose one, they should just show it on both plans. So that's not an issue as well, so they have really addressed all the comments effectively.

MR. ARGENIO: I want to just clear up for the benefit of the members number four, Mark's number four bullet two, I have the letter from the Department of Planning here and actually -- no, you say public works, Mark, do you mean Planning or do you mean Public Works?

MR. EDSALL: That was specifically for Public Works. I comment on planning on comment one.

MR. ARGENIO: All right.

MR. EDSALL: We received both.

MR. ARGENIO: They want the construction entrance 100 feet long, wow.

MR. MANDELBAUM: How long is it now?

MR. ARGENIO: All right, look, I'm not going to get into it, they are technical comments, it's relative to the driveway cross section, it's relative to the type of pipe you need to use. Mark, you're going to review that and see to it that they comply with that.

MR. EDSALL: Which letter are you looking at, Mr. Chairman?

MR. ARGENIO: I have one July 13th here.

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MR. EDSALL: Right, there was just a couple of technical items. Nothing that I'm concerned about that would affect their application.

MR. ARGENIO: Travis, that's yours to take care of. Let me just hit this item of concern, Mark, I really don't understand, guys follow me on this, prior letters were received from the, and this is to you Mark, please comment on this, from the US Department of Interior Fish and Wildlife Service and blah, blah, blah, it says that from the Palisades Park Commission recommendations for alternative subdivision layout, alternative development areas, potential impacts to Knox Headquarters corridor, visual concern of three story buildings and further review. Nobody on this Board has commented yet that they dislike in any way, shape or form the layout of this. I mean I tend to agree with them the layout is, the landscaping is nice, stonewalls, it conforms. Where are we supposed to go with that?

MR. EDSALL: Well, I don't know that there is any place that the Board has to go with it but the applicant has indicated that they looked at shifting things, there are physical constraints, grading constraints. So the bottom line is the Board and the applicant have a copy of the letter from the US Department of Interior Fish and Wildlife Service, I just don't want it to be an open item. I think the applicant should craft some type of response so it doesn't sit in the file as an open item or un-responded item. I'm not saying that the Board jumps behind the letter with the same concerns, but it still is a piece of correspondence from a federal agency in the Town's file that shouldn't sit.

MR. ARGENIO: I assume that if any of you guys didn't like what you saw you'd speak up.

MR. MANDELBAUM: Do you have a copy of that? We never got one.

MR. ARGENIO: They have the stonewall there, Danny, that we had asked them to do. It seems to me they did an appropriate job of landscaping.

Mark, we're going to obviously make sure that the trees and such that they plant are not half inch caliber trees, they will be of substance.

JULY 28, 2010 AMBER GROVE SITE PLAN

MR. MANDELBAUM: 6-foot high minimum.

MR. EDSALL: You've got your response from County Planning which provided a local determination but made the suggestion that the DEC visual EAF form be prepared and a visual analysis be done. They are well along on that by doing the rendering. The rendering I'm assuming incorporates the landscaping that you have shown on the plan. You could even do some other visual analyzes.

MR. ARGENIO: Let me read from County Planning just for a second.

MR. EDSALL: That's where I started.

MR. ARGENIO: This project will help to satisfy the current need for affordable units in the Town of New Windsor which was identified in the three county housing needs assessment. I mean we're actually getting a compliment from those folks. The proposed subdivision and special, again this is from the County, Roberta, the proposed subdivision and special use permits and site plan appears to be consistent with the County comprehensive plan and local laws. Having no further comments from a County perspective the department recommends that the Planning Board proceed.

MR. EDSALL: So completing, Mr. Chairman, my only suggestion is that as part of the public hearing which Jonah indicated they're going to have visual presentation, we button that up which is one of the County's recommendations and then that's a done deal as far as adequate information being before the Board.

MR. ARGENIO: Where do you want the flag pole, in the island?

MR. MANDELBAUM: Of course.

MR. ARGENIO: Danny, are we missing anything with this? We're in the unique position of being in a situation where we asked for X, Y and Z and we actually got it.

MR. MANDELBAUM: And getting it.

JULY 28, 2010 AMBER GROVE SITE PLAN

MR. ARGENIO: Do you have a fence around the pond? Is the pond protected, is it a dry pond, a wet pond?

MR. MANDELBAUM: We didn't put a fence on it but we could put a 4-foot.

MR. ARGENIO: Probably should do something.

MR. EWALD: We designed it with DEC requirements for the interior slopes of I believe they are greater than four on one.

MR. ARGENIO: You should put something around it, Travis, because of the water.

MR. MANDELBAUM: 4-foot fence.

MR. ARGENIO: Typically, Jonah, what we look for is the wood slot fence with the black chain link on it. The chain link is actually the fence and the wood slats look nice horizontal.

MR. MANDELBAUM: If you look at what we just did we put a black chain link, you don't notice it.

MR. EDSALL: It's a split rail with black vinyl coded chain link.

MR. MANDELBAUM: Without the split rail, but we will be happy to do that.

MR. SCHLESINGER: What do we do with mailboxes?

MR. MANDELBAUM: The mailbox, interior in the building. Everything is inside so they don't have to go outside. There's a vestibule, there's a mailbox there.

MR. BROWN: Are the apartments almost identical to the first?

MR. MANDELBAUM: Identical building, identical same size, same layout. The center is the same. Vestibule is the same.

MR. ARGENIO: Just more parking. Mark, what else do we need to do procedurally here?

JULY 28, 2010 AMBER GROVE SITE PLAN

MR. EDSALL: At this point I believe the plans are adequately complete to schedule the public hearing.

MR. ARGENIO: I was going to say is there any reason we can't do that?

MR. EDSALL: I would do that. Again, if they supplement these plans with the rendering you already had and the other visual information and the response to the Department of Interior I think you've got a full package for the public hearing.

MR. ARGENIO: I'll accept a motion.

MR. VanLEEUEWEN: So moved.

MR. SCHLESINGER: Second.

MR. ARGENIO: A motion has been made to schedule the public hearing. Neil has seconded. Roll call.

MR. SCHLESINGER: Yes

MR. BROWN: Yes

MR. GALLAGHER: Yes

MR. VanLEEUEWEN: Yes

MR. ARGENIO: Yes

MR. ARGENIO: That is to schedule the public hearing. Please get a hold of my esteemed assistant here and have her help you prepare the notices.

What else do we have to do here tonight,
Mark?

MR. EDSALL: That's it.

MR. ARGENIO: Am I missing anything else?

MR. EDSALL: That's all you can do.

MR. ARGENIO: Jonah, you're doing the things that we're asking and you know it looks good, it looks good.

MR. VanLEEUEWEN: The last project everything we asked him to do he did.

JULY 28, 2010 MITCHELL & BAILEY SUBDIVISION

MR. ARGENIO: Mitchell & Bailey Subdivision on Spruce Street. Somebody here to represent this? Can I have your name and the firm you're with for the benefit of Roberta?

MR. SCALZO: Yes, my name is Darren Scalzo. I am from WE James Associates.

MR. ARGENIO: I want to read for a second, the application proposes the subdivision of a 1.43-acre parcel into two single family residential lots. The plan was previously reviewed at the 14 April 2010 Planning Board meeting. Just to refresh everybody's memory this is the lot that is just east of the corner of 32 and Union Avenue where the Hess Station is. Just east of there maybe a block or two on the right. You'll see a large field, that large field is part of that house right there. Essentially what they want to do is lop-off that field and I don't know, build a house I guess or something on it, is that right?

MR. SCALZO: Actually we're, no, sir we're a lot into Spruce. It's a wooded lot along the face of Spruce Street.

MR. ARGENIO: Okay, I'm sorry, I stand corrected. I was confusing this with another application. You went to Zoning though, yes?

MR. SCALZO: Yes.

MR. ARGENIO: We did refer you to Zoning?

MR. SCALZO: That is correct, yes. As stated it's a two lot subdivision, we are on Spruce Street.

MR. ARGENIO: Can you just take a minute and tell us exactly where it is because I had the wrong location. I'd like to get it for myself.

MR. SCALZO: We are approximately 300 feet from Union Avenue, south of Union Avenue, approximately 500 feet from the intersection Union Avenue and Route 32, close to the Hess and the Quick Check.

MR. ARGENIO: Got it, go ahead.

MR. SCALZO: Okay, we are, as I say, we're seeking a

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two lot subdivision, we're in the R4 zoning district, currently that's one acre zoning. We had required variances which were approved on June 14th, 2010. From what I understand Orange County Review was formed concurrently and we had positive results there. We have variances that were required for net lot area for both lots, we had lot width on only one lot and minimum livable floor area for one lot which is a preexisting condition. There's no future development plan for that lot which would be if you're looking at the map that would be lot number one. The ZBA just requested that we show the proposed dwelling and they asked actually about any tree removal that may occur during the building of the dwelling.

If you look I did show all the trees of substantial, over six inches at chest height thereon. We're going to have minimal tree cutting on that project when the time comes to actually build it, the dwelling. We're not creating lots here that are not in kind with the surrounding area.

If you draw your attention over to the vicinity map you will see that I, actually the two lots that we are creating are larger than most of the lots that are around us. That's all I got. It's a basic subdivision 1.43 acres, we're making two decent size lots. When we had our public hearing at the Zoning Board of Appeals meeting we had no objections at that meeting.

MR. ARGENIO: Did anybody speak?

MR. SCALZO: No one.

MR. ARGENIO: That's a fact. Nicole, no one spoke?

MS. JULIAN: No one spoke, I have the minutes.

MR. ARGENIO: That's good, that's good. Just a couple of things. One, where does the water come from, drinking water?

MR. SCALZO: I'm assuming that it is in Spruce Street. When I was on the field crew actually I did the survey and no water valves jumped out at me. I can check with the Town of New Windsor water department and verify that there is water on Spruce Street in that area.

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MR. ARGENIO: Did you look for a well on the original lot?

MR. SCALZO: There wasn't.

MR. ARGENIO: There wasn't. So there's domestic water, the Town of New Windsor is selling water from the original lot from some source around there.

MR. SCALZO: That's correct. As I say I was on the field crew.

MR. ARGENIO: There's town water there. I just don't want to miss it.

There's some minor corrections that have not been made. Do you have Mark's comments?

MR. SCALZO: Actually I don't.

MR. ARGENIO: Get a copy of them. Very minor stuff. You have to show where the public water system is. Some minor title block stuff that I'm just not going to even waste everybody's time with. I did ask Nicole to reach out for Anthony Fayo to see if he was okay with the driveway location. He is, yes, is that correct?

MS. JULIAN: Yes.

MR. ARGENIO: We have heard back from Planning, they say local determination, that is Orange County Planning. If anyone sees fit I'll accept a motion for a neg dec.

MR. VanLEEuwEN: So moved.

MR. EDSALL: Lead agency first.

MR. ARGENIO: I'm sorry. If anyone sees fit I'll accept a motion to declare Town of New Windsor lead agency.

MR. VanLEEuwEN: So moved.

MR. SCHLESINGER: Second.

MR. ARGENIO: Motion made and seconded Town of New Windsor declare itself lead agency for the Mitchell &

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Bailey minor subdivision. Roll call.

MR. SCHLESINGER: Yes
MR. BROWN: Yes
MR. VanLEEUEWEN: Yes
MR. GALLAGHER: Yes
MR. ARGENIO: Yes

MR. ARGENIO: I will accept a motion for a neg dec if anybody sees fit.

MR. GALLAGHER: So moved.

MR. SCHLESINGER: Second.

MR. ARGENIO: Motion made and seconded. Roll call.

MR. SCHLESINGER: Yes
MR. BROWN: Yes
MR. GALLAGHER: Yes
MR. VanLEEUEWEN: Yes
MR. ARGENIO: Yes

MR. ARGENIO: I was confusing this with the other lot where the giant field is. Is a family member building a house?

MR. SCALZO: Actually Colleen Bailey is the daughter of the Mitchells, they live around the corner, they are getting on in years and they actually are hoping to develop that for themselves so they can live right next to their daughter.

MR. ARGENIO: Anybody have anything else with this? Mark?

MR. EDSALL: Waive the public hearing if you see fit.

MR. VanLEEUEWEN: So moved.

MR. SCHLESINGER: I will second that.

MR. ARGENIO: At Zoning nobody came. Motion made and seconded by Neil that we waive it. I'll roll call.

MR. SCHLESINGER: Yes
MR. BROWN: Yes
MR. GALLAGHER: Yes

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MR. VanLEEUEWEN: Yes

MR. ARGENIO: Yes

MR. ARGENIO: Anybody, any other issues? Technically am I missing anything, Mark?

MR. EDSALL: Just the plan of corrections, that's fine.

MR. VanLEEUEWEN: So moved.

MR. ARGENIO: Motion has been made by Mr. VanLeeuwen for a final approval subject to Mark's comments. Do I have a second?

MR. BROWN: I second.

MR. ARGENIO: Second. Roll call.

MR. SCHLESINGER: Yes

MR. BROWN: Yes

MR. VanLEEUEWEN: Yes

MR. GALLAGHER: Yes

MR. ARGENIO: Yes

MR. ARGENIO: Thank you, sir, for coming in, good luck to you.

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MR. ARGENIO: Mr. Sarchino.

MR. SARCHINO: How are you? Joseph Sarchino, John Meyer Consulting.

MR. ARGENIO: Joe, we have seen this a couple of times.

MR. SARCHINO: Right.

MR. ARGENIO: Is this the first time you've seen this?

MR. BROWN: The first time.

MR. SCHLESINGER: It's the first time I have seen it.

MR. ARGENIO: I know it's been here at least once.

MR. SARCHINO: I can bring everybody up to speed. You're probably wondering where we've been. The last time we were here --

MR. ARGENIO: That was going to be my question.

MR. SARCHINO: And one of the key items on this project was that we were kind of struggling with, the private site is basically outlined right here, the existing Jiffy Lube, Blockbuster, car wash. The owners of this property control the old Primavera building and where the tattoo shop was. One of the things that was problematic in this was that we had a New York State lot that was here that had the parking lot on it, and in working with Mark's office we were talking about cross easements, access easements, we had utilities running through it, it just made it difficult to really process the application.

What has been happening since the time we were here last is the owners of the property had been working with the State to purchase the lot. And just recently they were successful in that. It took an enormous amount of time. Working with the State is just, it's just not easy.

I have the documents here tonight that I'd like to hand out for the record that shows that they do own the lot because I think that was something that was questioned previously by Mr. Edsall, so I'd like to hand that out to the Board if I could.

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MR. ARGENIO: Was that the whole story about the parking lot?

MR. SARCHINO: Yes, basically the owners had purchased the lot, the State lot. So now the owners have full control of all the parcels. And if the Board remembers the proposal is to construct a 14,550 square foot Walgreens store in this location. Here's Route 32. The parking would basically be surrounding the building here. One thing that I note the DOT will like these orange areas here identify there's five existing curb cuts for this property. The proposal is to get rid of those five and just come down to two curb openings in this location and this location. We would reconstruct the sidewalk out front and the landscaping as shown. The store will also have a pick up drive-through in this location here. So you would come in here, come into the drive-through lane, turn left, pick up your goods and carry on. You also have a bypass lane that was asked, I think Mark had asked make sure we showed a bypass lane.

As far as parking for the project we looked at the entire site as a whole. There's 179 required parking spaces for all of the buildings here, all the retail buildings here. So we are providing 181 right now. So we are meeting the zoning code. Mark had issued a comment letter back in December of '08, which I don't think we ever got to review at that point, we kind of stopped and we never really came to the next meeting to review that or to carry on. But I think here tonight we're just telling you we're starting up again, we have not addressed those comments yet.

What's happening right now is the owner has retained an architect to design the building. The next meeting that we would come back to you we would have the architectural, elevations to show you and we can go over those aspects of the project.

MR. ARGENIO: Joe, that area of our town is a very commercial area obviously.

MR. SARCHINO: That's correct.

MR. ARGENIO: We have a lot of pavement and concrete in that area. Make sure you do a nice job with the landscaping, what you're doing there with the trees

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and stuff. We don't have a lot there. That whole area is like one big giant slab of blacktop concrete.

That pond that you have underground, do you have enough elevation to get that into the state system? They're going to let you put all of that water in there?

MR. SARCHINO: Well, what we did we modeled all the way through the 100 year storm, we were showing a decrease. So that's something that we have to work through with the DOT, but we made sure when we designed the system we are showing a decrease coming off the pipe in this location here. So that's something that we have to do, we do show a decrease, water equipment treatment.

MR. ARGENIO: Sounds like a little Greg Shaw magic there.

MR. SARCHINO: But, no, we will have a decrease and I know, you know, we know if we do show an increase and we don't prove the pipe works the DOT won't approve it, it's as simple as that.

MR. ARGENIO: You have to go to the folks about the curb cuts.

MR. SARCHINO: That's correct.

MR. ARGENIO: You had five you said and now you're going to go down to two?

MR. SARCHINO: Now we are down to two, yes.

MR. ARGENIO: Are you going to consider the possibility of no left turn at least at the driveway close to the intersection, closer to the intersection?

MR. SARCHINO: In this area here?

MR. ARGENIO: Yes. Joe, let me tell you what I say, don't roll your eyes at me, listen to me, Cavollo's Restaurant was there for 100 years and I went there a thousand times to have lunch since I was younger. And there's a no left turn sign -- there was a no left turn sign there then. My partner, my uncle, who I used to go there for lunch with all the time, he insisted on making the left turn and I was nearly

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killed there many, many occasions. You should not be making a left turn on the right-hand side of that -- a left turn on the right-hand side of that parcel, Joe, without some type of control. Now, I'm speaking from personal experience.

MR. SARCHINO: I don't have personally a problem with it, I don't know what Walgreens is going to do. They are very, very picky.

MR. ARGENIO: As all national chains.

MR. SARCHINO: I don't think they would have a problem because you have full access at this location so I don't see a problem.

MR. ARGENIO: Joe, down at the other end the Wendy's, what is the Wendy's, Mark?

MR. EDSALL: Wendy's is no left turn in that location as well so.

MR. SARCHINO: There's no left turn into the site.

MR. EDSALL: And no left turn going out.

MR. SARCHINO: Yes, you're right.

MR. EDSALL: You can't go out that way.

MR. SARCHINO: It's a single there as well.

MR. EDSALL: No right turn out of there either.

MR. SARCHINO: The DOT might say it, I don't know at this point. I will ask Walgreens, if they don't have a problem with it, I mean I certainly don't have a problem and I don't think the owners would either not having a left turn out of there.

MR. ARGENIO: Anybody have any questions just jump in.

MR. VanLEEuwEN: I'm glad to see Walgreens is coming to town.

MR. SARCHINO: We are pleased that we are back.

MR. ARGENIO: I want to read the note. We have

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received a recommendation from the Town infrastructure group to seek restrictions on movements from the southerly access on Route 32 to prohibit both left turn in and left turn out movements. You're going to take that under advisement, Mr. Sarchino?

MR. SARCHINO: Yes.

MR. EDSALL: Mr. Chairman, if we could contrary to my normal review procedure I actually took the old comments that Joe referred to, went through and created some comments in red that I thought if the Board could provide some input it would help Joe in his progression through the plans. The rest of the comments are pretty straightforward but the ones that are actually in red I need some input from the Board one of which you have already taken care of.

MR. ARGENIO: Neil, would you comment on page 2, landscaping plan red bullet?

MR. SCHLESINGER: What would you like to know?

MR. ARGENIO: I would like to know if, in your opinion, a flag pole would be appropriate on this site?

MR. SCHLESINGER: Always.

MR. ARGENIO: Joe, are you demoing the old state lot or is that the state lot south of your parcel?

MR. SARCHINO: No, the state lot is in this location. The building is just off the state lot, but we do have a parking lot. We have an access point here, the loading area in that state lot. But it's no longer the state lot, we own that.

MR. ARGENIO: I understand. Does your client have multiple facades that he would consider or is it just one standard facade and what are these things right here?

MR. SARCHINO: Those are the trash compactors.

MR. ARGENIO: Is that the best you can do there?

MR. SARCHINO: Well, that's the standard location.

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MR. ARGENIO: Joe, come on.

MR. SARCHINO: The loading zone is here, we are trying to screen it here and here. So we could add some more evergreen plantings in this location to screen some cars coming down the road here. I don't think we need to worry about it here. We could add some evergreen planting, screen it from the Wendy's.

MR. ARGENIO: I don't understand, you have the compactors there on the north side of the building, Joe.

MR. SARCHINO: We are fenced in.

MR. ARGENIO: They are fenced in. PS, you're going to use larger units than what you used at Target because note to self the ones at Target don't work. They are too small, but that's a different discussion. So they would be serviced with the trash truck in that loading zone, is that right, and that loading zone is also used to merchandise the store, is that correct?

MR. SARCHINO: That's correct. I mean they do have storage in the building. I checked basically Walgreens will get one truck visit a week and then also sporadic soda, bread, milk trucks, smaller trucks. But in general they'll have one tractor trailer come in a week and between the hours of 8:00 and 5:00 p.m.

MR. ARGENIO: What is the other fenced in area?

MR. EDSALL: Mr. Chairman, just a suggestion when we encountered this over at the Burger King just up the road and the dumpsters and such were interior to the site next to that interior road and the Board had a significant concern about the visual aspect, they just created a block wall that matched the finish of the building.

MR. ARGENIO: So it looked like the building?

MR. EDSALL: It looked like the building and you didn't know it was an enclosure.

MR. ARGENIO: What is that other thing, Joe, that I just pointed to?

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MR. SARCHINO: This is the loading zone area. And I think this is a low fence area here.

MR. ARGENIO: For what, an air conditioner?

MR. SARCHINO: I will check with them. I think this is something new that they added.

MR. ARGENIO: Joe, you got to straighten that dumpster thing out.

MR. SARCHINO: If we do I could probably get a wall constructed around it similar to the facade of the building I think that would screen it. I would also add some evergreen plantings.

MR. VanLEEUEWEN: Joe, you're going to have to, simple as that.

MR. ARGENIO: Danny, any thoughts?

MR. GALLAGHER: Just he is continuing an entrance of the building or parking?

MR. ARGENIO: Why are you using a different symbol for the concrete, Joe, on the one side of the building than the other? Is there stamped concrete?

MR. SARCHINO: No, it's a concrete pad, that's all. This is sidewalk.

MR. ARGENIO: This concrete has one indication, this has another indication.

MR. SARCHINO: This is concrete sidewalk here. This is an extension of the building here. They have that like facade extension that we will be able to describe it much better when the architect comes in. Basically you have the sidewalk that comes along the perimeter of the building, then there's a canopy that comes out. We are working with Walgreens right now. Now that the project picked up they have some comments on this plan, small changes I still have to work with them on but it's not substantial. The next generation of plans that come in that respond to Mark's comments will also show those changes as well.

MR. ARGENIO: Mark, are these the level of fitness

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where they can go to County do you think? It seems to me they are pretty good.

MR. EDSALL: There's a lot of little comments. There's nothing of any significance that would change the plan in substance.

MR. ARGENIO: Maybe if Mr. Sarchino could address your cleanup comments maybe they could be in a state of fitness where they can go to County.

MR. EDSALL: Absolutely. It would be better if these are cleaned up a little bit so if you can get that done.

MR. ARGENIO: Joe, can you do that?

MR. SARCHINO: Sure.

MR. ARGENIO: Now, this Board is going to have other comments, you understand, at the end of the day. Mark certainly does a fine job reviewing but the dumpster thing has got to be tightened up. You got to find the spot to put a flag pole. We may want to look closely at the width of that sidewalk in the front and make sure with the bumper overhang from a car we're not limiting the travel width for pedestrians walking through. I mean there's stuff that we're going to look at.

MR. SARCHINO: Okay.

MR. ARGENIO: If anybody sees fit I'll accept a recommendation to issue a lead agency coordination letter to begin the SEQRA process.

MR. VanLEEuwEN: So moved.

MR. BROWN: Second.

MR. ARGENIO: Motion made and seconded that we issue the lead agency coordination letter. Roll call.

MR. SCHLESINGER: Yes

MR. BROWN: Yes

MR. GALLAGHER: Yes

MR. VanLEEuwEN: Yes

MR. ARGENIO: Yes

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MR. EDSALL: Mr. Chairman, I assume I can use these versions of the plan at least to get that ball rolling?

MR. ARGENIO: Absolutely, absolutely. I think Joe has done a good job here, Mark, quite frankly. Joe, you have to go do the dance with the State.

MR. SARCHINO: Yes.

MR. ARGENIO: And I really, I have to tell you I feel strongly about that entrance.

MR. SARCHINO: I will check with Walgreens and I will let you know. So what did we just do?

MR. EDSALL: Lead agency circulation.

MR. SARCHINO: Okay. And can we go to County yet or do you want to wait?

MR. ARGENIO: You are going to correct the plans based on Mark's comments which I hope you have in your hand. Once you have done that get to Nicole, get them to Nicole and we'll send them to County.

MR. SARCHINO: Okay.

MR. EDSALL: Mr. Chairman, one that I would like to get behind us we normally address it and it was a discussion two years ago as Joe indicated as an overall site, they meet the parking requirements and you had asked that I discuss that with you tonight into the minutes.

MR. ARGENIO: Yes, you were talking about the layout of the site plan.

MR. EDSALL: It's something you always ask me to at least bring into discussion and then we can put it behind us.

MR. ARGENIO: Here is the quick version for you guys before Mark starts, we had a discussion about the parking count. And with regard to proposed Walgreens building approximately there are approximately 76 spaces in the vicinity of the building with the calculated demand being 97 spaces. I said, I laughed

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at Mark when he said 76 spaces. I said it seems to me that that's probably triple what they'll need based on what I've seen in the Rite Aids and such in the area.

Go ahead, Mark, what else do you have?

MR. EDSALL: The bottom line is that a lot of times the code looked at discreetly doesn't make a lot of sense for every single site plan that comes in. Here we have the benefit of shared uses so they overlap. I personally have no problem with the distribution of the parking, it would probably be better if Walgreens used, and they will probably make their employees park toward the back anyway and it shouldn't be a problem, but the Board has asked me always to point out the balance of parking and now we've done it.

MR. ARGENIO: I will tell you where that started, that started with the Shoprite building in Vails Gate. All of this parking in the back and nobody could ever use it but they met the parking calculation.

MR. EDSALL: Here it's all functional parking because it's all in front of something.

MR. SARCHINO: One other thing to consider, the Town zoning code requires more parking than the industry standard. Industry standard is usually five per thousand which would be 72 spaces for the store. I don't know if that makes a difference to the Board or not.

MR. ARGENIO: Did you just listen to what I just said? What did I just say?

MR. SARCHINO: I just wanted to point that out.

MR. ARGENIO: And, Howard, do you have any thoughts right now? Henry and Danny?

MR. VanLEEUEWEN: I'm okay.

MR. GALLAGHER: We'll see it again.

MR. ARGENIO: Thank you for coming in.

MR. SARCHINO: We will be right in, we'll get the architecture done, we will be right back, we want to try to expedite things now.

JULY 28, 2010 MEADOWBROOK ESTATES CLUSTER

MR. ARGENIO: Meadowbrook Estate Cluster Subdivision Plan Amendment. The applicant has submitted an application to amend their final subdivision approval for a cluster type configuration. The submittal was reviewed on a concept basis only.

So I see some fancy guys here. I see Mr. Blustein here. The record should reflect that Mr. Blustein's dad did some legal work for me quite a few years ago and it will in no way impact my decision making ability here tonight.

How is your dad?

MR. BLUSTEIN: He's very well, thank you. Still working every day.

MR. ARGENIO: Guys introduce yourself for the benefit of everybody?

MR. PFAU: My name is Joe Pfau, Pietrzak and Pfau. Mike Blustein, Blustein, Shapiro, Rich and Barone in Goshen. Rick Rawley, Wayne Cortz and Frank Cavalari in the back there.

MR. BLUSTEIN: Since it received a conditional final approval there's been a change in ownership. The two distinguished gentleman in the front row are now the owners of the property. And we have submitted a revised cluster plan to minimize the impacts on the environment.

MR. ARGENIO: Has the lot count changed?

MR. PFAU: Lot count is still 90. There's 167 acres. What we have done is we have presented two alternates. Basically clustering to the westerly side of the property to give the Town the opportunity to extend their existing park which is adjacent to the northwest, or northeast corner of the property. We also have some photo overlays that depicts the town park better where you can see where it is in relationship to the subdivision itself.

MR. VanLEEuwEN: I know where it is.

MR. PFAU: The original project was one acre minimum lots. Many of them were over two acres. It took up the whole site. This project really reduces the amount of disturbance really by more than 50 percent.

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And actually takes up the wetlands disturbance almost completely, where we originally had mitigation and now we have no mitigation required for wetlands. Pretty much most of our environmental issues have decreased significantly. We are still planning on tying into the water and sewer services in the same location as the originally approved plan.

MR. ARGENIO: Joe, what do you want from us now?

MR. PFAU: Tonight I think we would like a positive recommendation to go to the Town Board to present our cluster plan to them and hopefully start the SEQRA process.

MR. VanLEEuwEN: Can I ask you a question? The road is going to be designated, donated to the Town or is it going to be private roads?

MR. PFAU: We are proposing to dedicate them to the Town.

MR. ARGENIO: What are we doing here with this alternate number two, there is no link to Mount Airy Estates? You've been here enough to know that that's something that we look for.

MR. PFAU: Well, we provided both alternates for the main reason being is to give the Town the option of obtaining additional open space adjacent to the town park. That's really the gist of it. I mean this is alternate one here. The green space is the open space. Alternate two just extends that green space and actually the upland space adjacent to the park is, this is the upland space outside the wetland buffer and everything it goes from about 23 acres to 31.8 acres. So there's that additional acreage. That's the main reason that we presented the second alternate. And also we believe that when the Town does develop, if they develop this portion of property as far as the park, it would seem to be good planning that entrances would be provided from the existing subdivision to the north as well as our proposed subdivision which will hopefully create a secondary emergency access. That's the reason for the alternate. Both have the same amount of lots.

MR. BLUSTEIN: I think the applicant would prefer

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alternative number two which has more of the green space then the town park can tie into it.

MR. ARGENIO: Mark, can you weigh in on this?

MR. EDSALL: I will if you so desire.

MR. ARGENIO: I am making that request.

MR. EDSALL: When we discussed this at the workshop the issues that have been bounced around are why contrary to the normal procedure of telling an applicant submit your application we'll review it, here clearly there was a basic difference as to the Town's preference of a through connection, bisecting some of the land that's adjacent to the town park land. So it was more of a decision on what the Town desired versus what maybe the applicant desired, to be very candid. And since this has to go to the Town Board for cluster approval I would suggest that the Board discuss pros and cons and if you really do reach a conclusion maybe pass on that suggestion to the Town Board but leave the decision for another day. Clearly there's pros and cons. Alternate two does provide more green space but then again it now has 90 lots all coming off of one entrance which is something that the Town Planning Board has in many cases said our trigger spot is around 30 lots, when we really start sweating about a single access. This is triple that.

MR. ARGENIO: Our trigger spot is even lower than that.

MR. EDSALL: 30 really was at the high threshold, as I recall, so this is triple that. So on that basis I said you really should have a plan that shows a cross connection so if there's a second access.

One of the positive points of having the through connection to the park is it actually provides the Town interior access to get to the interior areas without having to go over land. So there's a positive side to the use of those park lands by having access. So that's why I think there's a Town Board component they're going to have to weigh in, but I think the Planning Board from a planning stand point for the 90 lots you may want to weigh in on what your preference is and ship it to the Town Board.

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MR. ARGENIO: I can tell you this, can you please put up alternate two please while I am speaking?

MR. SCHLESINGER: Is there any way you can put them next to each other?

MR. PFAU: Yes.

MR. ARGENIO: Mark, I got to tell you, I'm not comfortable with throwing that decision out there tonight. I'd like to look at these and consider them a little bit.

MR. EDSALL: No, I'm not saying you should not discuss them.

MR. ARGENIO: Joe, is there any reason that in alternate number two which is in your, Mr. Blustein's hand, can we make a link right here? Why can't we do that?

MR. PFAU: We don't own that property.

MR. ARGENIO: Well, go get it. Listen, Joe, here is why I'm asking the question, again you guys chime in if you disagree with me, I want to have the opportunity just to think about this a bit rather than spit something out tonight.

MR. PFAU: Absolutely.

MR. ARGENIO: I'm not a big fan of all these little lots here, I have to be frank with you, I'm not. But I am a big proponent of the link back to Mount Airy. I think that's an important component of your project to the Town, in my estimation.

MR. PFAU: Would the Town, would the Board consider like a secondary type road, more of an emergency access road maybe one that's not, that would be more like a park entrance type road?

MR. ARGENIO: I don't know.

MR. SCHLESINGER: Doesn't that plan have an entrance, an access there?

MR. ARGENIO: This one does right here, yes.

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MR. SCHLESINGER: Okay.

MR. ARGENIO: I'm wondering if that could be achieved in the other plan that's all, because Mr. Pfau said the applicant would prefer this one, number two.

MR. SCHLESINGER: Okay.

MR. ARGENIO: I would prefer this one. The lots are a little bit bigger.

MR. SCHLESINGER: Okay, is the applicant so opposed to that?

MR. PFAU: Is it because of the lot size or the access?

MR. ARGENIO: The access is definitely an issue. This is like row housing here. You know what this is? This is Levitown.

MR. BLUSTEIN: It's affordable housing.

MR. ARGENIO: If you want affordable housing go to Jonah's place.

MR. BLUSTEIN: I am not old enough.

MR. ARGENIO: Go ahead, Joe.

MR. PFAU: I mean we could achieve, you know, I think we can get larger lot sizes here. We can probably go to half acre lots in this area here, make these a little bit smaller for half acre and we may be able to achieve larger lots without going in that direction. That is something I believe we can achieve. But as far as the access itself I mean that is a separate issue.

MR. ARGENIO: Okay.

MR. VanLEEuwEN: Where is your access road coming out now?

MR. PFAU: Right on 94.

MR. SCHLESINGER: Wait, wait, wait, why can't you have that access on that plan?

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MR. ARGENIO: What's your question, Neil?

MR. SCHLESINGER: The access, shine your light on the access.

MR. EDSALL: He wants to add the link road onto the other plan.

MR. SCHLESINGER: Why can't you add that link in there?

MR. ARGENIO: That's a lot of additional lineal foot of road and a lot of additional disturbance in an area that is very sensitive with a lot of wetland surrounding it. That probably could be done Neil, but it's --

MR. SCHLESINGER: But you like that plan where it's disturbed even more.

MR. ARGENIO: Which one?

MR. SCHLESINGER: The one on the left.

MR. ARGENIO: Because the lots are bigger.

MR. SCHLESINGER: Okay.

MR. ARGENIO: Have you been in the Reserve?

MR. SCHLESINGER: No.

MR. ARGENIO: I would encourage you to take a ride through there some day. You've been through, Howard that's why. Danny, have you been there?

MR. GALLAGHER: Plenty of times.

MR. ARGENIO: I don't want to be a party to that.

MR. VanLEEuwEN: I do like the smaller lots. One reason why it's less roads to maintain for the Town, the sidewalks and everything else. That's one thing I do like about it.

MR. ARGENIO: Do you know which one has more lineal foot of road, Mr. Pfau?

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MR. PFAU: Alternate two -- I'm sorry, alternate one.

MR. ARGENIO: Alternate one has more lineal feet?

MR. VanLEEuwEN: This has got more roads.

MR. ARGENIO: If you could, Joe, make those lots a little bit bigger. Row housing. Let me read Mark's comments.

MR. EDSALL: Joe, while he's looking at my comments, I'm just looking at the plans and the picture is being painted that there's a lot more roads, but comparing the two plans you are coming off 94, there's two parallel roads as you come in, the diagonal road is the same, the road going up to the cul-de-sac is the same and only one, the only difference is the link.

MR. ARGENIO: The link.

MR. EDSALL: The link.

MR. PFAU: Yeah, the link.

MR. EDSALL: So it's not like there's a lot more roads. The issue is the link. And if the requirement is that the link is in because you're up at 90 lots then it's academic, then it becomes an issue of lot size which is a Board discussion. But the road lineal footage is going to be identical either way.

MR. BLUSTEIN: I believe the applicants have heard what you are saying and they are saying whatever you want.

MR. ARGENIO: Rich or Wayne, would you come up, introduce yourself, please, whoever is speaking on behalf of the project?

MR. CORTZ: Hi, Wayne Cortz.

MR. ARGENIO: Go ahead.

MR. CORTZ: We could go with the link road, that would be great, you know, with the larger lot size I think that would be nice.

MR. ARGENIO: You're okay with that?

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MR. CORTZ: Yeah. We thought you wanted additional property for park land.

MR. ARGENIO: Well, I think that we should, as I said, I don't think it's fair to ask the members to make a decision tonight because it's the first time we are seeing it. You guys have certainly had time to consider it. And, yes, the park land is important. There's a lot of issues here and I think Mark made a good point, make a column on the left, make a column on the right, take a look at it and we'll vote. That's what we do, we are a board, we will vote and everybody has one vote and that's what we'll do but you sound like, Wayne, you'll go left, you'll go right.

MR. CORTZ: We actually preferred the larger lot size. Do you have that one? We actually originally when we started out in the hallway we liked this one a lot better with the larger lots having the link road.

MR. ARGENIO: Mark, what do we need to do procedurally tonight?

MR. EDSALL: Well, again it's got to go to the Town Board eventually, whenever you feel comfortable referring it over. If you reach the conclusion tonight that the Board supports the larger lots, supports the connection road, then alternate one as a concept seems to be something the applicant and yourselves agree on. If you want to send it to the Town Board shoot it over.

MR. ARGENIO: George, do you have something to say?

MR. GREEN: Mr. Chairman, obviously both boards have to concur and I would hate to see the applicant go through the process of the Planning Board and, you know, appealing the Planning Board to turn around and bring it to the Town Board and the Town Board take an opposite viewpoint saying we want more park land and you saying we want larger lots and the link road. And I have had one opportunity to sit down with the applicants and look at the plans. How about this, suppose we get another opportunity to sit down with the applicant and look at the plans and suppose we get it in front of the infrastructure committee which is comprised of both.

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MR. ARGENIO: Town and Planning Board.

MR. GREEN: Town and Planning and then bring it back here. I don't want to see them go through a whole lot of extra work.

MR. ARGENIO: Okay.

MR. GREEN: I know Wayne is going to reach out for me within a day or two anyway because he has other things he wants to talk about I'm sure with the subdivision.

MR. ARGENIO: Mr. Green, I'm good with that. I think that's a great idea, great suggestion. What I didn't want to do is, as I said earlier, I thought it would be unfair to tell everybody, Neil, Howard, Danny and Henry, this is really the first time I've seen it -- I've seen it before this briefly.

MR. GREEN: I have seen both plans once.

MR. ARGENIO: But this is the first time these guys are seeing it, so I would like to have the chance to have them review it and they can give me feedback and we can talk about it and I can bring that to the infrastructure group and we can put it on the table.

MR. GREEN: In the interim I can sit down because we have other considerations, there's several considerations that are going to be coming out at the infrastructure, pump station, I know Wayne's got some questions about that. There's, as everybody knows, there's a developer's agreement associated with this subdivision. And I note that there's been some concerns on the applicant's part about that development's agreement. It will give us all a chance to sit down one more time and look at this and everybody be on board with one plan and probably save the applicant a great deal of money, sorry Joe, save the applicant a great deal of money.

MR. VanLEEuwEN: I'd like to take it home and look at it and look it over and come back at the next meeting and make a decision if we have to.

MR. ARGENIO: You good with that, Danny?

MR. GALLAGHER: Yes, absolutely.

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MR. ARGENIO: You guys to my right?

MR. GREEN: You are only going to do it once, otherwise you will end up doing it twice and there may be some compromise in between that we can talk about and I don't want to see you have to do it twice. If that's all right with you, Mr. Chairman.

MR. ARGENIO: I agree.

MR. VanLEEuwEN: I think it's the best way out.

MR. ARGENIO: What's the matter?

MR. CORTZ: Nothing, I'm fine.

MR. ARGENIO: You have to revisit the SWPPP, but you know that, that's not an issue. We can start considering the reapproval after we visit it at the infrastructure level.

Mark, am I missing anything else with this?

MR. EDSALL: No. And Steve and I were just discussing, so we understand it, it's going to go to infrastructure, then the Planning Board is going to have another opportunity then to make the formal recommendation and referral?

MR. ARGENIO: Correct.

MR. EDSALL: At that point when it comes back Steve's reminding me that we do need to circulate again for lead agency so it does make sense to send the plan that ultimately is submitted so we'll hold off on that.

MR. ARGENIO: Okay.

MR. EDSALL: The same with County planning.

MR. PFAU: Does the applicant go to these meetings with the infrastructure or no?

MR. GREEN: Let us talk about that, Joe.

MR. ARGENIO: Not typically.

MR. GREEN: I mean we have on occasion brought somebody in that we wanted to talk to. We'll meet

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first, we should do that rather timely.

MR. ARGENIO: Okay? I like the through road but I understand the Supervisor's point about the park land. That's why I made the suggestion of possibly punching through over here. That's what Joe is saying, Michael, that little gap, it's not part of Cavalari's property and it may be an issue.

Wayne, if this goes away, all of that roadway goes away that you have to build, a lot of things go away if you can punch through there.

MR. VanLEEuwEN: It might to be your benefit.

MR. ARGENIO: It might be, but only you can determine that. Okay, guys, thank you for coming in.

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MR. ARGENIO: Next on tonight's agenda is Pizzo site plan amendment. This is another one of our procedural ones here. This application proposes a 1,080 square foot office area on the second story of the existing approved building. The plan was previously reviewed at the 24 February 2010 Planning Board meeting. You guys on this? This is the triangle piece with the second story on. Very simple.

Do you want to give us a quick rundown?

MR. SHAW: Yes, I will refresh your memory, we were before you in the early part of this year for a referral to the Zoning Board of Appeals and what the applicant is requesting is to utilize the second story totaling 1,080 square feet for office use. With that we were six parking spaces deficient. With the referral we went to Zoning Board of Appeals and we were successful in getting an area variance for those six spaces. There are no site improvements intended whatsoever. Everything was installed according to the plan when this Board approved it back in 1995.

MR. ARGENIO: Except the second floor.

MR. SHAW: That's why we are here.

MR. VanLEEUEWEN: The second floor is there.

MR. SHAW: That's right, that is why we are asking for an amended approval.

MR. ARGENIO: Nicole has leaned over and told me that at the public hearing for the Zoning Board approval one person showed up and they spoke in favor of the application.

MR. SHAW: Correct, that was a perspective tenant who I believe is still going to be the tenant.

MR. ARGENIO: That would have been my wild guess.

MR. EDSALL: Or Mr. Pizzo.

MR. ARGENIO: Or Mr. Pizzo, correct. If anybody sees fit I will accept a motion that we waive the public hearing?

MR. GALLAGHER: So moved.

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MR. SCHLESINGER: Second.

MR. ARGENIO: Motion made and seconded we waive the public hearing. Roll call.

MR. SCHLESINGER: Yes

MR. BROWN: Yes

MR. GALLAGHER: Yes

MR. VanLEEUEWEN: No

MR. ARGENIO: Yes

MR. ARGENIO: We waive the public hearing. Anybody have any other questions about this?

MR. SCHLESINGER: What's the present condition of the second floor?

MR. SHAW: The second floor is framed in sheetrock. I believe there's electrical there. Your building inspector is here, I haven't been there but I think it's finished, darn close to being finished.

MR. SCHLESINGER: In anticipation of getting the approval?

MR. SHAW: It was finished a long time ago. It was done when they were constructing the building, am I correct?

MS. GALLAGHER: That's correct.

MR. SCHLESINGER: Why didn't they ask for that then?

MR. SHAW: I can't answer that, I wasn't aware it was even finished until after the fact. You know, once I got approval I was out of the loop and I guess he felt that as he was doing the first floor he'd do the second floor. He tells me that when the inspector came to inspect the first floor they also inspected the second floor realizing full well that there's not a building permit and they certainly weren't going to get a CO. It sounds rather convoluted but that's the best answer I can give you.

MR. VanLEEUEWEN: First I would like to look this thing over and think about that a little bit because this is already built. This is pre-built. It's got two floors on it now and I wouldn't be a bit surprised if

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somebody is already up there. No?

MR. SCHLESINGER: I don't know, I don't think so.

MR. SHAW: If somebody was going to be up there he only has one of the three suites rented out, I believe.

MR. VanLEEUEWEN: I'm not talking that you have anything to do with that.

MR. SHAW: I understand, I understand the Board's position on this. It was clear the first time I was here that they are not happy with somebody who goes ahead and just presumes that they're going to get approval from the Town and finishes off the second floor when they don't even have a building permit to do that for approval from this Board.

MR. VanLEEUEWEN: You try to pull something on me and I don't like it, so I am not voting which way or any way. But I think what we should do is look at this thing and think about it before we say okay.

MR. ARGENIO: Jen, the build-out upstairs, what of it?

MS. GALLAGHER: It's not occupied at this moment. The reason we did an inspection is because we were doing a shell inspection of the building and we do the entire building. Every time we do a shell inspection, and that is how Lou caught that. They were planning on occupying this upper story which was supposed to be used as storage only. Lou then got in contact with Mr. Pizzo and Greg got involved and this is how the process started.

MR. SCHLESINGER: Do they have adequate egress and access?

MS. GALLAGHER: They will.

MR. SCHLESINGER: Fire, whatever else they need?

MS. GALLAGHER: They will before they get a CO, we will ensure that they do.

MR. SCHLESINGER: But they don't have it now.

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MS. GALLAGHER: It's possible, I would assume so.

MR. SCHLESINGER: Did they submit a plan for it?

MS. GALLAGHER: I'm not sure that we have the total. I don't know, I'm not sure that we have the build-out. I think it's still storage until they get this approval.

MR. SHAW: I think it's safe to assume if this Board does approve the plan then under a normal course of procedures it goes over to Jennifer's office and she does her job to make sure that it's done right and there's a building permit and there's, you know, finally gets closed out with the CO. If it's not it's got to be right.

MR. SCHLESINGER: You know, Greg, if they had come up with the plan initially, I don't have to go any further, it would be nice but.

MR. SHAW: I can tell the Board, because this was asked by the Zoning Board of Appeals, was there any intention at all when we came before this Board and the Zoning Board for the variances back in 1995 that the second floor was going to be utilized and I never once had a conversation with Mr. Pizzo that it was going to be, it was just going to be either dead space or storage space. Certainly not office space. So when, you know, I got the phone call and said that he had to go before the Planning Board and the Zoning Board it was quite the surprise to me.

MR. GALLAGHER: Has he gone through with the framing inspection or electrical inspection or anything to that nature?

MS. GALLAGHER: We were doing the shell of the building.

MR. GALLAGHER: So that inspection has already been done, electrical and everything?

MS. GALLAGHER: The electrical I don't believe is finalized for upstairs. Our framing inspection is finalized.

MR. ARGENIO: Steve, are we opening the Town up to a

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segmentation issue with this application?

MR. GABA: Not at all. Not at all. If you take a look at an existing building and you're putting a second, additional space on it I think that any impact that that space might have would already be something you would take into consideration. I mean unless your reviews indicated otherwise and I don't think it has.

MR. VanLEEuwEN: Years ago we had a similar situation over behind Shoprite, the basement was all prepared to put in housing and housing only allowed them two floors. Well, took a long time but they finally did get it approved for housing, took us to court and we lost because the judge said he had a right to use their space. The space was just like this, already laid out, already done.

MR. ARGENIO: This is a similar scenario.

MR. VanLEEuwEN: You're darn right it is.

MR. ARGENIO: Well, there's no reason for us to open the Town up to any unnecessary liability.

MR. VanLEEuwEN: This will pass, somebody else comes in and says we're going to do the same thing.

MR. ARGENIO: I understand your point and I don't disagree with that. I certainly understand your point and I do not disagree with you. However, the legal reality is that they went to the Zoning Board, they did get their variance, and it is filed at town hall. Go ahead, Mark.

MR. EDSALL: No, we were just discussing the reality unfortunately is that the plan includes no site modifications. It purely involves an interior modification and the only impact of that interior modification is the need for the parking which the Zoning Board has already granted the variance which in all candor as much as it's disturbing to be put in this position for the Planning Board you've really got no choice because there's nothing for you to disapprove because there's no change in the site plan with the sole issue being the parking and the Zoning Board having already granted the variance. I hate to say it but game over.

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MR. ARGENIO: I agree with Henry, it's an awful crummy position to be put in but we're in that position. Follow me, Greg?

MR. SHAW: I understand you loud and clear.

MR. ARGENIO: I'm sure based on your tone you don't disagree.

MR. SHAW: I will pass.

MR. ARGENIO: I don't want to put words in your mouth but that's my sense.

MR. SHAW: I understand the Board's position. I understood it six months ago.

MR. ARGENIO: We made it very clear last time as well.

MR. SHAW: You absolutely did.

MR. ARGENIO: I don't think you were at that meeting.

MR. VanLEEUEWEN: No, I wasn't. I didn't know this came before us again. Did we recommend this to go to the Zoning Board?

MR. ARGENIO: Yes, we did. They were asking for a variance and that is the board that determines whether or not the variance is granted.

MR. VanLEEUEWEN: I have no arguments but I do have an argument with putting up a building two stories and there it was agreed that there will be just storage and now all of a sudden we are going to rent it as an office.

MR. SCHLESINGER: Jerry, what was it you were saying that you agreed with, hang on?

MR. ARGENIO: That I think it's in poor taste and it's not very ethical to put a building up and represent it as a single story building and then during the construction phase just start building out the second story until the building inspector catches you building something that you're not approved to build. I agree with that.

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MR. SCHLESINGER: I totally agree with that.

MR. ARGENIO: But the reality of it is it is what it is.

MR. SCHLESINGER: The reality to me is, to me is had they come to us in the beginning with the proposal with the use of the upstairs and everything had been code and you got the variances from the Zoning Board.

MR. ARGENIO: Likely would not have been an issue.

MR. SCHLESINGER: It likely wouldn't have been an issue, you would have gotten approved. Based upon that as much as it irks me.

MR. SHAW: I'm here before you asking for approval after the fact, very simple.

MR. SCHLESINGER: I understand that but are we setting precedent, number one. I don't know the legality of segregation and how that would come into effect with something like this.

MR. ARGENIO: Segmentation.

MR. SCHLESINGER: Segmentation, I'm sorry. And I don't know how that would come into effect with this and obviously the attorney says that it's not relevant. Where are we going?

MR. VanLEEUEWEN: Gentlemen, there's such a thing as right and wrong and this is wrong, no matter which way you twist it.

MR. SCHLESINGER: It's wrong as far as intent is concerned but is it right or wrong as far as code is concerned.

MR. VanLEEUEWEN: There's still a right and wrong.

MR. ARGENIO: Mark, I think you have spoke to it already, do you want to reiterate your point?

MR. EDSALL: My point being is that the site plan amendment that's before you has absolutely no physical changes to the plan. The only change is the parking calculation. That battle, as it may be, was to be won

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or lost at the Zoning Board. Once the Zoning Board granted the variance, counsel will tell me if I'm off base, it effectively puts this Board in a position of no choice because you have effectively nothing to review. You can't veto the Zoning Board's action. You have not many options.

MR. ARGENIO: That does not mean it's a formality every time something goes to the Zoning Board, it means in this particular application because it's a purely internal building issue. In this particular application it's a formality.

MR. SCHLESINGER: Jerry, I don't remember when the applicant came before us and we referred it to the Zoning Board.

MR. EDSALL: February 24th.

MR. SCHLESINGER: Okay, but did we send a recommendation?

MR. EDSALL: No.

MR. ARGENIO: We did not but we did as Greg enunciated expressed our disapproval and discontent with the whole idea of this retroactive approval business.

MR. SCHLESINGER: We did?

MR. ARGENIO: Yes, we did. I did, and whoever else was here that night did.

MR. SCHLESINGER: Fine.

MR. ARGENIO: It doesn't mean I disagree with you. It doesn't mean I disagree with you because I do agree with you but.

MR. VanLEEuwEN: You have a mind of your own.

MR. ARGENIO: Somebody want to make a motion on this?

MR. SCHLESINGER: Make an motion to approve --

MR. ARGENIO: Wait a second. Did we do neg dec? I will an accept a motion for neg dec on this application.

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MR. SCHLESINGER: Made.

MR. BROWN: Second.

MR. ARGENIO: Motion made and seconded. Roll call.

| | |
|------------------|---------|
| MR. SCHLESINGER: | Yes |
| MR. BROWN: | Yes |
| MR. GALLAGHER: | Yes |
| MR. VanLEEuwEN: | Abstain |
| MR. ARGENIO: | Yes |

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MR. EDSALL: Just a correction on my comment for, since I did my comments, we did receive local determination from the County.

MR. ARGENIO: Anybody want to make a motion for final approval?

MR. SCHLESINGER: I will make a motion hesitantly for final approval.

MR. ARGENIO: Anybody want to second?

MR. BROWN: Hesitantly second.

MR. ARGENIO: I have a motion and I have a second for final approval with Pizzo site plan. For the record this Board is very displeased with this applicant in the fashion in which this was handled. And I think I agree with you guys and I agree with Mr. VanLeeuwen. That said I will have a roll call.

MR. SCHLESINGER: Yes

MR. BROWN: Yes

MR. GALLAGHER: Yes

MR. VanLEEUEWEN: No

MR. ARGENIO: Yes

MR. ARGENIO: Thank you, Greg.

MR. SHAW: I will pass the sediments on to Mr. Pizzo.

MR. ARGENIO: Please do that.

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MR. ARGENIO: Anything else? Motion to adjourn?

MS. GALLAGHER: For a discussion item the yeshiva, the old convent there?

MR. ARGENIO: Yes.

MS. GALLAGHER: They want to add a small addition 20 by 22 to extend their study hall. Do you want them to come before you?

MR. VanLEEuwEN: Still got to come to the Board, it's commercial.

MS. GALLAGHER: It doesn't have to, it's a small addition.

MR. EDSALL: I looked at this with Jen and it is a dot on the site plan. It has significant setbacks.

MR. ARGENIO: How close is the nearest property line?

MS. GALLAGHER: 700 feet, and then in the front where the addition is going 830 feet to Forge Hill Road.

MR. EDSALL: And it is a fraction of the buildings.

MS. GALLAGHER: Did you give them this?

MS. JULIANO: Yes, I did.

MS. GALLAGHER: It's all right in front of you. This tiny, tiny little darkened spot. Turn your page.

MR. GALLAGHER: What is the reason?

MS. GALLAGHER: Expanding their study hall, they don't have enough room. It says 16 by 22, but the rabbi came in today and said that they're going to make it 20 by 22.

MR. GALLAGHER: They occupy that whole facility?

MS. GALLAGHER: The study hall, the study hall is that portion that you see from off of the dining hall.

MR. ARGENIO: I'll tell you what we're going to do, we're going to go around the room.

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MR. VanLEEuwEN: Again?

MR. ARGENIO: Yes. Who thinks that it should come to the Planning Board? I'll start with you Neil, yes or no?

MR. SCHLESINGER: Mark?

MR. ARGENIO: Speak to it, Mark.

MS. GALLAGHER: They are on a time constraint also.

MR. EDSALL: Forgetting the time constraint, I'm just looking at it from past practice.

MR. VanLEEuwEN: That's not our problem.

MR. EDSALL: Exactly. I balance this by a look at setbacks, impacts and just a percentage of the building footprint really is what it is. Similar to what you did with the --

MR. ARGENIO: It's a micro dot.

MR. EDSALL: Similar to what you did with Ridgecrest Baptist Church. You said look, it's an entranceway, deal with the building department. This is just a small addition on a big building. I don't see any issues that even if you had a plan that would be interesting to review. I think it's a building department issue personally.

MR. SCHLESINGER: Agree.

MR. BROWN: I agree.

MR. GALLAGHER: I agree.

MR. ARGENIO: Henry?

MR. VanLEEuwEN: If I was to put an addition on my building on 32 I would have to come before this Board, that's how I feel.

MR. ARGENIO: I agree with you guys, I think it's not anything of significance.

MS. GALLAGHER: I will take care of it.

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MR. ARGENIO: Motion to adjourn?

MR. VanLEEUVEN: So moved.

MR. ARGENIO: Thank you.

(Whereupon, the proceeding was concluded.)

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C E R T I F I C A T I O N

THE FOREGOING IS CERTIFIED

to be a true and correct transcription of the
original stenographic minutes to the best of my
ability.



Roberta O'Rourke